



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/666,140	09/20/2000	Joseph G. Barrett	06975-131001	5787
26171	7590	06/02/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			NGUYEN, VAN KIM T	
			ART UNIT	PAPER NUMBER
			2151	
DATE MAILED: 06/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/666,140	Applicant(s) BARRETT ET AL.	
	Examiner Van Kim T. Nguyen	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>13 February 2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to communications filed on February 13, 2006.

Claims 1-37 are pending.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on July 18, 2005 and March 17, 2006 have been received and considered by the examiner.

Response to Arguments

3. Applicant's arguments filed February 13, 2006 have been fully considered but they are not persuasive.

In response to applicant's argument that "Eichstaedt's system does not describe or suggest monitoring for connection transaction between multiple access requestors and multiple access providers using a switching component connected to the multiple access providers", see page 11: lines 7-9, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, Eichstaedt discloses monitoring a computer system for connection transaction between multiple requestors 12, 14, and 16 and multiple access providers 18 and 20 using a switching component 22, 11 connected to the multiple access providers (e.g., protection system 11 distinguishes data objects from database 20 from abusive robots; col. 5: line 62-67); thus it meets the claim.

In response to applicant's argument that "Eichstaedt does not teach or suggest denying access includes denying access to the access providers through the switching component by the attacking access requestor for a second configurable period of time," see page 11: lines 13-15, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, Eichstaedt teaches at least three frequency checks, if the client request values pass first frequency check 56, further frequency checks are performed in steps 62 and 64: client requests are determined for a time periods t_2 through t_n and compared with x_2 through x_n ; both t_i 's and x_i 's are independently selectable (col. 7: lines 24-67), thus it meets the claim.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Eichstaedt et al. (U.S. Patent No. 6,662,230), hereinafter Eichstaedt.

Regarding claims 1, 2, 13-16, 23-26, and 34-35, as shown in Figures 1-6, Eichstaedt discloses:

monitoring a computer system for connection transactions between multiple requestors (12, 14, 16) and multiple access providers (18, 20) using a switching component (22, 11) connected to the multiple access providers (col. 5: lines 32-39; and col. 11: lines 62-67);

denying access by an attacking access requestor (16) to the access providers (18) when a number of connection transactions initiated by the attacking access requestor (e.g., request values) through the switching component (11) exceeds a configurable threshold number (e.g., maximum request values) during a first configurable period of time (col. 6: lines 43-61; and col. 12: lines 3-20).

Regarding claims 3-4 and 6-7, Eichstaedt also discloses the monitoring further includes counting and comparing the number of connection transactions initiated by the access requestors (e.g., request values) through the switching component (11) during the first configurable period of time (t_1) to the configurable threshold (e.g., a comparison between the calculated request values and a predefined maximum value is made; col. 7: lines 5-10 and lines 21-49).

Regarding claims 5, 8-9, 18-19, and 28-29, Eichstaedt also discloses the monitoring includes detecting connection transactions between multiple Internet protocol addresses and the access providers with the switching components (col. 5: lines 32-39; and col. 7: lines 23-49).

Regarding claims 17 and 27, the aforementioned claims contain similar limitations to those limitations of claims 1 and 3-4 therefore the same grounds of rejection is applicable.

Regarding claims 10-12, 20-22, and 30-33, Eichstaedt discloses that the denying of access includes denying access to the access providers through the switching component (11) by the attacking access requestor (16) for a second configurable period of time (t_2) after detecting a

Art Unit: 2151

most recent connection transaction initiated by the attacking requestor through the switching component (col. 4: lines 12-17; and col. 7: lines 31-49).

Regarding claims 36, Eichstaedt also discloses a host computer system (21) receives communication from the switching component.

Regarding claims 37, Eichstaedt also discloses the switching system (11) is included in a host system (21).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2151

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073.

The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Van Kim T. Nguyen
Examiner
Art Unit 2151

vkn

Khanh Dinh
Primary Examiner